



County, City, and Village Lottery Information Guide

This guide has been developed to provide counties, cities, and villages with a basic overview of the steps which must be taken if they are considering operating a lottery in their community. This guide supplements the information contained in the Nebraska County and City Lottery Act and the Nebraska County and City Lottery Regulations.

Purpose of the Nebraska County and City Lottery Act

The Nebraska County and City Lottery Act allows counties, cities, or villages to conduct a lottery activity for community betterment purposes. The Nebraska Department of Revenue is charged with the licensing and regulatory oversight of the lottery activities. The act provides minimum guidelines for game conduct and specifies the proper record keeping, reporting, and use of the proceeds raised through the lottery activity.

Election Requirement—Placing the Lottery on the Ballot

Prior to conducting a lottery, a county, city, or village must hold an election on the issue. The issue can be placed on the ballot at a regularly-scheduled election, or a special election may be held. The governing board of the county, city, or village must decide to place the lottery issue on the ballot. Typically, public hearings are held on the subject of conducting a lottery prior to placing the matter on a ballot so that residents of the community can voice their opinions on the lottery issue.

The following is an example of ballot language which may be used for the lottery ballot question:

SHALL the (insert county, city, or village name) establish and conduct a lottery as permitted under the Nebraska County and City Lottery Act for the purpose of community betterment as defined in the act?

Yes (For such Lottery)

No (Against such Lottery)

The lottery activity must be approved by a majority of the registered voters of the county, city, or village who are voting on the issue.

A lottery may only be conducted within the geographical boundaries of the county, city, or village that has approved the lottery activity, or within a licensed racetrack enclosure which abuts the corporate limits thereof or which is within the zoning jurisdiction of a city, unless the lottery is jointly conducted with another county, city, or village that has also approved a lottery activity by the required election. A county, city, or village must enter into an agreement pursuant to the Interlocal Cooperation

Act in order to conduct a joint lottery with another county, city, or village. Any agreement to conduct a joint lottery must be approved by the Department.

Choosing the Type of Lottery

Once the lottery election results have been certified and it is determined that the lottery has been approved, what is the next step? You need to choose the type of lottery you will be conducting. Many communities have made their lottery choice even before the election is held. There are two types of lotteries available: (1) a traditional ticket drawing lottery where sequentially-numbered tickets are sold and a drawing is held to determine the winner(s); or (2) keno, a game in which the participants choose from 1 to 20 numbers from a pool of 80 numbers, and the winner(s) and the corresponding prize(s) are determined on the basis of correctly matching the numbers selected by the participants to the 20 numbers drawn or generated for each game. **Only one type of lottery may be conducted by a county, city, or village at one time.** If keno is chosen, you must also decide whether to implement a ball draw keno game or one that relies on a random number generator (computer), for winning number selection. A combination of methods is permitted; however, the method of winning number selection can only be changed once each business day. A schedule must be submitted to the Department in writing identifying the days and times each method of winning number selection will be used. No deviations may be made from the daily schedule on file with the Department unless otherwise authorized in writing by the Department based upon a written request from the county, city, or village. In the event of an emergency, a ball draw method of winning number selection may be changed to random number generator provided the emergency situation is reported by the county, city, or village to the Department within 24 hours of its occurrence.

Implementing a Keno Lottery

A community must decide if it is going to conduct the keno lottery on its own or contract with an individual or business to run the keno lottery on its behalf. Most communities choose the latter, and the search begins for a LOTTERY OPERATOR. A lottery operator generally will handle almost everything that needs to be done relative to starting up the keno game. The

lottery operator will typically have overall responsibility for the daily operation of the keno lottery, including hiring and training the lottery workers and selecting the site(s) (with the community's approval) where keno will be played. The lottery operator will usually obtain the keno equipment, perform the record keeping requirements, and pay prizes to the winners.

Choosing and Contracting with a Lottery Operator

In order to qualify as a lottery operator, an individual or sole proprietor must be a resident of Nebraska, a partnership must be organized under the laws of this state, a limited liability company must be formed under the Limited Liability Company Act, and a corporation must be incorporated under the Business Corporation Act. A nonprofit organization or nonprofit corporation is not eligible to obtain a license as a lottery operator. A community may develop contract specifications in a Request for Proposals and invite interested parties to submit proposals or negotiate directly with an individual or business that has expressed an interest in conducting the keno lottery.

Once a lottery operator has been selected, the terms and conditions of the lottery operator agreement are negotiated and finalized. The Department has developed a list of provisions that should be considered in a lottery operator agreement. The Department also has copies of agreements that have been executed by other communities that are available to any interested community upon request. Although it is not required, the community may submit a draft copy of its proposed lottery operator agreement to the Department prior to its execution. The Department will review the agreement for compliance with the Nebraska County and City Lottery Act and make suggestions where appropriate.

Conflicts of Interest

No member of the governing board or a governing official of a county, city, or village conducting a lottery may have any ownership interest, directly or indirectly, in the lottery operator conducting the lottery on behalf of the county, city, or village or in any licensed manufacturer-distributor of lottery equipment. The definition of "connected, interested, or otherwise concerned, directly or indirectly" in Regulation 35-600.02RR of the Nebraska County and City Lottery Regulations would govern unauthorized ownership interest.

No manufacturer-distributor of lottery equipment or employee, agent, or spouse of any manufacturer-distributor may play in any lottery or participate in the conduct or operation of any lottery conducted by any county, city, or village except to the exclusive extent of their duties as a licensed manufacturer-distributor.

No sole proprietor, partner in a partnership, member in a limited liability company, officer or director of a corporation licensed as a lottery operator may be connected with or interested in, directly or indirectly, any licensed manufacturer-distributor of lottery equipment.

Sales Outlet Locations

A community conducting a keno lottery may offer the game at more than one location. Any location other than the location of the lottery operator where the lottery can be played is called a SALES OUTLET. There are two types of sales outlet

locations: (1) an independent game location where separate winning number selection can actually be done or (2) a satellite location. A satellite location does not conduct winning number selection. A satellite location merely accepts wagers on the keno lottery, but the actual winning number selection is done at a main location.

If a keno lottery is to be conducted at a location other than that of the lottery operator, the county, city, or village must establish by ordinance or resolution, qualification standards that must be met by any individual or business seeking to have its location become an authorized sales outlet of the lottery. The county, city, or village must approve each sales outlet location based upon the standards adopted. The qualification standards must be submitted to the Department within 30 days of their adoption. In addition, the Department must be notified of each approved sales outlet location within 30 days of its approval. The lottery operator and sales outlet location typically negotiate a contract called a site agreement.

Applying for the Lottery License

Once the lottery operator agreement and site agreements, if applicable, have been finalized and executed, the county, city, or village may submit the license applications and required documentation to the Department. License application forms for the community, the lottery operator and the sales outlet location(s) will be sent to the community upon request or may be printed from the Department's Web site. A "Licensing Checklist" will be included with the application forms to assist the community in submitting all of the required information. To expedite the licensing process, the license applications of the community, lottery operator, any sales outlet locations, and all of the required attachments should be submitted at the same time.

The License Application Review Process

The Department will review the license applications submitted to make sure that all of the required information has been included. No action will be taken regarding the issuance of the licenses until the background investigations required by the Nebraska County and City Lottery Act have been completed. In the case of lottery operator license applicants and sales outlet location license applicants, fingerprinting for criminal background investigation purposes is required through the Nebraska State Patrol and the Federal Bureau of Investigation (FBI). Fingerprinting will not be required of a lottery operator or sales outlet location license applicant if a criminal background investigation was performed by the Nebraska Liquor Control Commission in conjunction with an application for a liquor license. Oftentimes, the most time-consuming part of the license application and review process is obtaining the criminal background investigation results from the FBI. In addition to the criminal background investigation, the Department's Investigative Services also conducts a background investigation of lottery operator license applicants. The amount of time required to complete this investigation is contingent upon the current workload of the investigative staff and the complexity of the required investigation. For these reasons, IT IS NOT ADVISABLE FOR A COMMUNITY TO ANNOUNCE OR PLAN A SPECIFIC START-UP DATE FOR THE LOTTERY UNTIL IT HAS RECEIVED THE LICENSES. Any provisions

in a lottery operator agreement relating to time frames for game start-up should allow for these licensing contingencies.

License Issuance

After the Department has completed its investigation and has determined that everything is in order, the licenses are printed and issued. All of the licenses will be sent to the mailing address which the community indicated on its license application. The community, the lottery operator, and the sales outlet location must all have physical possession of their licenses before the lottery can begin operation. The lottery operator's license is to be posted at the main location where the keno game is conducted. Each sales outlet location must post its license at its location. The community should keep its license where they maintain other keno lottery records.

Lottery Workers

Prior to start-up of the lottery, any individual who will be performing work directly related to the conduct of the lottery must apply for a lottery worker license with the Department. A properly completed and signed application must be filed with the Department prior to such individual beginning his or her duties. An application is considered filed with the Department upon its receipt, or as of the date the application is postmarked or faxed, provided the actual application is received by the Department within 10 days of the postmark date or fax date. The application must be signed by a governing official or the community's authorized representative as evidence of their approval to submit the application to the Department. If the application is approved by an authorized representative, a copy of the approved application must be filed with the county, city, or village. In order to determine whether a license application has been filed with the Department, contact our office by telephone or access the lottery worker database on the Web site. A User Name and Password is required to access the database and may be obtained by contacting our office. Only county/city lottery licensees, governing officials, and their designated representatives may access the database. The applicant is granted a probationary license status after the license application has been filed. If the Department has not initiated proceedings to deny the license application within the 120-day probationary period, the Department is required to grant the applicant a regular license. **(Note: A printed license is not issued to lottery workers.)** Work directly related to the conduct of the lottery means any work involving the actual day-to-day conduct of the lottery including, but not limited to, ticket writing, winning number selection, prize payment to winners, record keeping, shift checkout, review of keno writer banks, security, and working as a keno runner. Individuals employed by the county, city, or village who perform work related to the lottery must also complete and submit lottery worker license applications. The lottery worker license application forms are available from the Department upon request or may be printed from the Department's Web site.

Lottery Equipment

All lottery equipment must be obtained by the county, city, village, or lottery operator, from a licensed manufacturer-distributor of lottery equipment. Manufacturer-distributors of lottery equipment must apply for and obtain a license from the

Department prior to marketing, selling, or distributing lottery equipment in Nebraska.

Lottery equipment used in and essential to the conduct of the lottery must be tested and approved by the Department. This includes, but is not limited to, keno balls, keno ball selection devices including electrically operated blower machines, automated ball draw systems, and other electronic selection devices, random number generators (internal and external), and keno systems. It is the responsibility of the licensed manufacturer-distributor of the equipment to receive approval of such equipment prior to marketing it in Nebraska. In addition, the Nebraska County and City Lottery Regulations require the usage of camera surveillance equipment in all ball draw operations to record the winning number selection process for subsequent use in winner verifications. The camera surveillance system and video or digital recording devices and monitors **MUST** be inspected and approved by the Department before the keno game can begin operation.

Keno display boards and monitors, rabbit ears used in conjunction with electrically operated blower machines, magnetic, electronic, and digital storage media, and other supply items that do not directly affect the outcome of the game are not subject to approval by the Department.

A county, city, or village which desires to conduct a ticket drawing type of lottery must submit a sample of the proposed ticket to the Department for review and approval prior to the sale of any tickets.

Hours of Operation

A county, city, or village lottery cannot be conducted between the hours of 1:00 a.m. and 6:00 a.m. daily including, but not limited to, selling tickets, paying tickets, voiding tickets, closing the game, or winning number selection.

Participation and Age Restrictions

A person must be at least 19 years of age to play or participate in any way in a lottery conducted by a county, city, or village. A person who is an employee of a lottery operation must be at least 19 years of age if he or she is involved in the operation of the lottery. In addition, a county, city, or village must establish by ordinance or resolution the limitations, if any, on the playing of the lottery by any member of the governing board, a governing official, or the immediate family of such member or official. The owners and officers of a lottery operator with whom the county, city, or village contracts with to conduct its lottery cannot play that lottery. Lottery workers cannot play the lottery while they are on duty. A county, city, or village may prohibit, by ordinance or resolution, an owner or officer of an authorized sales outlet location from playing the lottery. Copies of any such ordinances or resolutions must be submitted to the Department.

Lottery Tickets

The maximum purchase price of a lottery ticket or the maximum amount a player can wager on a single game keno ticket is \$100.00. All lottery and outside keno tickets must contain the name of the county, city, or village conducting the lottery. In the case of ticket drawing lotteries, the tickets must be sequentially-numbered. Additional requirements for keno tickets may be found in the Nebraska County and City Lottery Regulations.

Prize Payout Percentages

At least 65 percent of the gross proceeds of the lottery activity must be returned to the players in prizes. In the case of a keno lottery, the 65 percent prize payout requirement must be realized during the annual period, July 1 to June 30.

Allowable Expense Limitation

A county, city, or village conducting a lottery cannot use more than 14 percent of its lottery gross proceeds for allowable expenses. Compliance with the 14 percent expense limitation is based on the lottery expenses incurred by a county, city, or village during an annual period corresponding to the fiscal year of the county, city, or village. Allowable expenses are defined and specified by both the Nebraska County and City Lottery Act and the County and City Lottery Regulations. License fees paid to the Department and audit or legal expenses incurred by a county, city, or village directly related to the operation of the lottery are allowable expenses; however, they do not have to be included in determining compliance with the 14 percent limitation. While license fees are entirely excluded from the 14 percent limitation, audit and legal expenses are limited to one percent of the lottery gross proceeds or \$5,000, whichever is greater, during the annual period, July 1 to June 30. Prizes and the state lottery tax of two percent are also excluded from the 14 percent limitation. One of the expenses that must be applied against the limitation is the amount of salary, commission, or fee that is paid a lottery operator to conduct the lottery on behalf of the county, city, or village. Any federal excise tax imposed on the gross proceeds of the lottery must also be applied against the 14 percent expense limitation, if paid for by the county, city, or village.

Unclaimed Lottery Prizes

All unclaimed lottery prizes are the property of the county, city, or village on whose behalf the lottery is conducted. Lottery prizes that are not claimed by a player are exempt from the Uniform Disposition of Unclaimed Property Act.

Record Keeping and Audit

The gross proceeds of the lottery less prizes paid in cash must be deposited in a separate bank account of the county, city, village, lottery operator or sales outlet location. All records of the lottery activity must be maintained and disposed of in accordance with the records retention and disposition schedule for Nebraska County/City Lottery Records - Schedule 59 published by the Nebraska Records Management Division. The Department, any law enforcement agency, or any other government agency may inspect the records relating to the lottery at any time.

On an annual basis, coinciding with the fiscal year of the county, city, or village, compliance procedures prescribed by the Department must be performed on the keno lottery by the county, city, or village or by a person which has contracted

with the county, city, or village. A report outlining the findings from the performance of the compliance procedures must be submitted to the Department within 90 days of the end of the fiscal year of the county, city, or village.

Lottery Tax and Reporting Requirements

A state lottery tax of two percent of the gross proceeds of the lottery is to be paid to the Department on a quarterly basis. The tax is to be remitted on a form prescribed by the Department and is due by the 30th of the month following the end of each calendar quarter. The county, city, or village is also required to complete and submit with the tax return a County/City Lottery Activity Report, detailing the distribution of the gross proceeds of the lottery for the reporting quarter. These forms are supplied by the Department.

Each county, city, or village must also file with the Department an annual report of its keno lottery activity. The report must be on a form prescribed by the Department and cover the fiscal year of the county, city, or village. The report must be filed within 90 days of the end of the reporting period.

Keno lottery winnings of \$1,500 or more (reduced by the wager) require the payer of the winnings to complete and file a Form W-2G, Certain Gambling Winnings, with the IRS. In addition, a federal excise tax on wagering may apply to a portion of the lottery gross proceeds. For more information on these requirements, contact the Internal Revenue Service.

Inactive and Discontinued Lotteries

If a lottery authorized by an election held on or after October 1, 1989, is not in operation for any ten consecutive years, the lottery is no longer authorized and cannot be reactivated without its approval in another election.

An existing lottery may also be discontinued if the question of whether to continue the lottery is placed on the ballot of a regularly-scheduled election or special election and a majority of those voting on the issue vote to discontinue the lottery. An election to discontinue a lottery cannot be held within two years of the election which originally authorized the lottery. If a lottery is discontinued in this manner, another election to approve a subsequent lottery activity cannot be held within two years of the election which discontinued the previous lottery.

For Additional Information Contact:

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Charitable Gaming Division
301 Centennial Mall South
P.O. Box 94855

Lincoln, Nebraska 68509-4855

Telephone (402) 471-5937 or Toll Free (877) 564-1315

FAX (402) 471-5600

Web site: www.revenue.ne.gov/gaming